

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

LAURA SENNETT)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:09-cv-1063 (TSE/IDD)
)	
UNITED STATES DEPARTMENT OF JUSTICE, et al.)	
)	
Defendants)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF SENNETT’S RULE
41(A)(2) MOTION TO DISMISS COUNT IV AS TO DEFENDANTS
ARLINGTON COUNTY AND PRINCE WILLIAM COUNTY**

Laura Sennett (“Sennett”), by counsel, respectfully submits this Memorandum in Support of her Motion for Voluntary Dismissal of Count IV, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, as to Defendants Arlington County and Prince William County. For the reasons set forth below, Sennett requests that this Court grant her Motion.

“Although the decision is discretionary, the ‘purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced.’” *Fidelity Bank PLC v. N. Fox Shipping N.V.*, 242 Fed. Appx. 84, 88-89 (4th Cir. 2007) (quoting *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987)). The Court should grant a Rule 41(a)(2) motion “absent plain legal prejudice to the defendant.” *Bridge Oil, Ltd., v. Green Pacific*, 321 Fed. Appx. 244, 245 (4th Cir. 2008) (quoting *Ellett Bros., Inc. v. U.S. Fidelity & Guar. Co.*, 275 F.3d 384, 388 (4th Cir. 2001)). A defendant cannot establish prejudice sufficient to defeat a Rule 41(a)(2) motion merely by showing that it has filed an answer, *Andes v. Versant Corp.*, 788 F.2d 1033, 1036 n.4

(4th Cir. 1986), or that it faces the prospect of a subsequent lawsuit, *Ellett Bros., Inc.*, 275 F.3d at 388-89. *See Bridge Oil, Ltd.*, 321 Fed. Appx. at 245.

Granting the voluntary dismissal in this case would cause absolutely no prejudice to the defendants. The case is still at an early stage; no discovery whatsoever has been undertaken.

For the foregoing reasons, Sennett respectfully requests to dismiss without prejudice Count IV of the Complaint, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, as to Defendants Arlington County and Prince William County.

Dated this 16th day of February, 2010.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of February, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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